

# Transition Plans: It's the law

## *It's never too late to devise a plan*

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**B**y law, every public entity in the United States with 50 or more employees is responsible for implementing a transition plan. This plan identifies areas in the community that have barriers to accessibility for persons with disabilities and outlines the steps to correct them. This is not an engineering law—it is a civil rights law and falls under the Americans with Disabilities Act (ADA). Although enforcement has been spotty, it is a smart move since a transition plan is your first line of defense against complaints and provides your community with an outline of items to plan, budget for and correct.



**Unusable curb ramp due to uneven running slopes and control joints**

The transition plan has been part of the Americans with Disabilities Act since it was passed in 1990—some 20 years ago—yet many municipalities are still unaware of the requirements or fail to encompass all ADA aspects including sidewalks and curb ramps. While it's hard to pinpoint an exact reason for this, it tends to be due to the lack of publicity of the details of the ADA and the lack of understanding the functionality of a transition plan. But not knowing is not a defense with the courts. A law that has been around for 20 years should be known and implemented by all communities.

## **How to implement**

There are two key, independent processes in assessing existing ADA issues. The first is to perform a self-evaluation of all existing programs, activities and services, while the second is to implement a transition plan. Often they are confused to be one and the same, even mistaken as one process handling both; reasonably so, since one is not a benefit unless the other is performed. It is important for municipalities to go through a self-evaluation process that addresses barriers within their programs and facilities, as well as describes how they will be made accessible and compliant. It is a time-consuming effort that involves staff members going through the whole community in search of areas that are not compliant. Without a doubt, it can be expensive and time-consuming, but it is required.



**Reconstructed curb ramp meeting ADA guidelines, including a detectable warning system**

The transition plan describes the structural modifications that will be made to correct the barriers found in the self-evaluation process and how it will ensure that programs and services are accessible to persons with disabilities. The purpose of the transition plan is to document the barriers to persons with disabilities and to propose the structural modifications that will be undertaken to provide program acces-



sibility. The transition plan will also outline a time frame for these modifications. The number of years it will take to complete the plan and the funding that will be required each year on modifications are determined by what a community can feasibly afford. The transition plan should be adjusted yearly so there is always an updated record of the modifications and funding needed. When a transition plan is complete, the municipality simply keeps it on record as there is no requirement to file it with any government agencies.

### Key elements of the plan

The basic elements of the transition plan are fairly simple. After the transition plan is developed, it is just a matter of reevaluating and updating it each year. Elements of the plan include:

- A list of obstacles to ADA compliance and the procedure for removing and/or accommodating these obstacles.
- A list of the structural modifications that are needed.
- The timeline when these changes will be accomplished.
- Estimated costs of each change outlined in the plan.
- The name of the staff member who will regularly report on the progress of the plan.
- At least an annual update and revision of the transition plan.



**Compliant ADA accessible corner location with shared landing**

When developing a plan, use the government online resources. Information on transition plans and the requirements can be found under the Title II Technical Assistance Manual, section 8.0000 Administrative Requirements, paragraph 8.3000 Transition Plans of the ADA. ([www.ada.gov/taman2.html](http://www.ada.gov/taman2.html))

A transition plan is a safety net when a complaint is issued. A municipality can then prove that the issue has already

been identified and there is a plan to correct it. If necessary, the modification can be moved up to an earlier stage in the plan. It can potentially protect a community against possible fines and unplanned construction. The best practice is to keep the plan updated and continually monitor and work on achieving the milestones so, if a complaint is issued, the municipality can demonstrate to the designated federal agency that there is an active, working plan in progress.

### Know the whole law

Understanding the details of what ADA covers is essential. To illustrate, a municipality thought they had compiled a good transition plan, but they didn't realize that rights-of-way were included as well. A well-informed community activist filed numerous complaints against the community for lack of compliance. The community had no defense against the claims since they had not developed a plan for the rights-of-way. In this case, it was disappointing for a community that thought they were in compliance to be caught unaware. What ADA covers is clearly specified, so diligence to the details is important.

The best defense is to understand and pay attention to all ADA requirements. Be proactive about keeping up with the regulations and how to comply. Many communities are not aware of all regulations or are incorrectly complying with them. This is not an excusable defense as public entities, by law, bear all the responsibility for knowing the information and following it correctly. Communities need to learn about the transition plan and realize it is in their best interest to make a plan for these expenditures—just as they would plan for road repair. The protection the plan affords them could potentially save the community money in the long run, instead of having to pay out if sued.

It's going to take a long time for total awareness of transition plans. Knowledge of transition plans is low in some areas, especially smaller communities. Hopefully through word of mouth, more and more communities will realize that this is the law and they need to comply.

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